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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,684	03/28/2001	Craig S. Rendahl	47382.000122	3283

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,684

Applicant(s)

REND AHL ET AL.

Examiner

Brian J. Broadhead

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 59-103 is/are allowed.
- 6) ☒ Claim(s) 35-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 35-58 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 35 and 47 the limitations "determining means that determines a category for preselected data contained in the one or more records"; and "providing means that provides the one or more records with a corresponding category to a data processor, wherein the corresponding category indicates a reliability for the associated record" are not supported by the originally filed specification.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 35, 37, 39, 40, 41, 43, 44, 45, 46, 47, 49, 51, 52, 53, 55, 56, 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jack et al., 5719396, in view of Stedman et al., 5319199.

3. Jack et al. disclose obtaining data from at least one remote vehicle sensing device and creating one of more records that contain the received data on lines 27-42, on column 4; determining a category for preselected data contained in the one ore more records on lines 64-67, on column 5; creating a file for the one or more records on lines 51-52, on column 7; the received data includes vehicle image data and wherein evaluating the received data contained in the one or more records based on predetermined reliability criteria includes determining whether the vehicle image data for the at least one vehicle is readable and the received data includes vehicle license plate data and wherein evaluating the received data contained in the one or more records based on predetermined reliability criteria includes determining whether the vehicle license plate data matches a vehicle image for the at least one vehicle on lines 12-33, on column 8.

4. Jack et al. does not disclose providing the one or more records and a corresponding category to a data processor, wherein the corresponding category indicates a reliability for the associated record; excluding records from subsequent processing if the corresponding category indicates that the associated record is unreliable, and processing the one or more records that have not been excluded; validating at least a part of the data by inspection of at least some of said vehicle emission data, wherein the step of validating the data comprises one or more of:

checking for insufficient exhaust plume, checking for a calibration error, checking for improper optical component alignment, checking for inordinately low or high readings for one or more exhaust components, checking for large variations between different readings taken for the same exhaust plume, determining whether there is a second source of emissions present, determining whether vehicle speed criteria are met, determining whether vehicle acceleration criteria are met, and determining whether ambient or local conditions have significantly influenced data collected.

5. Stedman et al. teach providing the one or more records and a corresponding category to a data processor, wherein the corresponding category indicates a reliability for the associated record on lines 42, on column 9, through line 3, on column 10; excluding records from subsequent processing if the corresponding category indicates that the associated record is unreliable and processing the one or more records that have not been excluded on lines 1-2, on column 10; validating at least a part of the data by inspection of at least some of said vehicle emission data, wherein the step of validating the data comprises one or more of: checking for insufficient exhaust plume, checking for a calibration error, checking for improper optical component alignment, checking for inordinately low or high readings for one or more exhaust components, checking for large variations between different readings taken for the same exhaust plume, determining whether there is a second source of emissions present, determining whether vehicle speed criteria are met, determining whether vehicle acceleration criteria are met, and determining whether ambient or local conditions have significantly influenced data collected on lines 42, on column 9, through line 2, on column 10. It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to use the accuracy check of Stedman et al. in the invention of Jack et al. because such modification would remove inaccurate readings as stated on line 2, on column 10.

6. Claims 36, 38, 48, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jack et al., 5719396, in view of Bishop et al., 5210702.

7. Jack et al. disclose the limitations as set forth above. Jack et al. does not disclose matching the records with registration information including license plate data. Bishop et al. teach of matching vehicle registration data with the records using license plate data on lines 55-65, on column 7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the matching of the files to registration data because the would enable determining emissions standards based on the vehicle type.

Allowable Subject Matter

8. Claims 59-102 are allowed.

9. Claims 42 and 54 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The prior art for record does not disclose transferring the license plate data to at least one record and enabling the at least one record to be edited; editing includes adding a license plate type; and providing a custody log for maintaining custody

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information that corresponds to the at least one emissions record that corresponds to the at least one vehicle; and deleting excluded records.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 703-308-9033. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

BJB

BJB
October 30, 2004

Thomas G. Jackson
THOMAS G. JACKSON
SUPERVISORY PATENT EXAMINER
GROUP 3600